**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE**

**MONDAY, THE 3RD JULY 2006 / 12TH ASHADHA,1928**

**WP(C).No. 17385 of 2006(T)**

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**AGAINST THE ORDER IN EP.310/02 IN O.S.NO..239/98 OF SUB COURT,THRISSUR.**

**.....**

**PETITIONER:**

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**BEENA, AGED 36,**
**W/O. KOZHIPARAMBIL NANDAKUMAR, PADIYAM VILLAGE-DESOM, KANDASSAMKADAVU, THRISSUR TALUK.**

**BY ADV. SRI.G.SREEKUMAR (CHELUR)**

**RESPONDENT:**

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**SURENDRAN,**
**S/O. OLLAKKAT SANKARANARAYANAN,**
**KOODAPUZHA DESOM, CHALAKUDY VILLAGE,**
**MUKUNDAPURAM TALUK.**

**BY ADV. SRI.G.UNNIKRISHNON.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/07/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**W.P.(C). NO.17385/2006:**

**APPENDIX**

**PETITIONER'S EXHIBITS:**

**EXT.P.1: COPY OF THE DECREE IN O.S. 239/98 DTD. 28/02/02 ON THE FILE OF THE PRINCIPAL SUB COURT, THRISSUR.**

**EXT.P.2: COPY OF THE E.P. NO. 310/02 IN O.S. 239/98 DTD. 19/07/02 ON THE FILE OF THE SUB COURT, THRISSUR.**

**//TRUE COPY//**

**prv.**

**PIUS C. KURIAKOSE, J.**

.....

W.P.(C)No.17385 OF 2006

.....

DATED THIS THE 3RD JULY, 2007

**J U D G M E N T**

This Writ Petition under Article 227 is filed by a judgment-debtor who is aggrieved by an order of sale and settlement of sale proclamation for recovery of the decree-debt. The grievance is that the execution court passed the impugned order even as a Second Appeal preferred against the decree was pending before this Court. Mr.K.Ravi, counsel for the petitioner submits that though at the time of passage of the impugned order the application for condonation of delay in the matter of filing the Second Appeal was pending, subsequently the delay has been condoned and the Second Appeal has been registered on the files of this Court. The Second Appeal, according to him, was once referred to the Adalat also. There is a likelihood of the matter being settled, according to counsel.

2. I notice that this Court became inclined to grant stay only on condition that the petitioner remits a sum of Rs.25,000/- within two months from 4.7.2006. Neither counsel is able to inform me whether the above payment has been made by the petitioner. At any rate, since I am told that the Second Appeal has been registered by this Court after condoning the delay, I am of the view that the petitioner

has to seek appropriate reliefs from the second appellate jurisdiction.

3. The Writ Petition will stand disposed of continuing the order of stay presently passed for another six weeks from today. It is open to the petitioner to seek appropriate reliefs from the civil appellate jurisdiction of this Court.

**(PIUS C.KURIAKOSE, JUDGE)**

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